

REMARKS

Claim Amendments

Claims 33, 37, 39, 41, 45, 47, 49, and 57 have been amended to address the rejections under 35 U.S.C. §101. No other claim has been amended, added, or deleted. No new matter has been added by these amendments. Claims 17-64 remain in the application.

Information Disclosure Statement of November 20, 2009

The Examiner has refused to consider the prior art submitted in the Information Disclosure Statement submitted on November 20, 2009, stating that the list of prior art is unduly long. Applicant understands the examiner's concern. However, Applicant notes that the 106 cited references have been provided to comply with the disclosure requirements of *McKesson Info. Solutions, Inc. v. Bridge Medical, Inc.*, 487 F.3d 897 (Fed. Cir. 2007). The listed documents were cited in the file histories of one or more of the six patent applications identified in the Cross-Reference to Related Applications section of the present patent application on page 1 of the specification that identifies patent applications related by subject matter to the present application. The relevance of each of the cited documents may be determined by referring to the file histories of the respective related patent applications.

Applicant is not aware of, and the examiner has not cited to, any legal or administrative justification (e.g., in the MPEP or 37 CFR) supporting the examiner's position that Applicant must provide a detailed analysis of "each and every individually cited reference listed" as to its materiality and a number of other enumerated requirements. Such a reply would be onerous and, in any event, does not appear to be required by statute or regulation. Accordingly, Applicant has not complied with the examiner's request.

Applicant seeks a compromise to advance prosecution. In this vein, Applicant is resubmitting the Information Disclosure Statement with those references cited against the claims of the related patent applications highlighted. The documents identified below were cited against the claims of the identified related patent application as indicated, and their relevance may be determined from the identified file history. Careful consideration of at least these documents is requested:

US 10/607,898: 7,120,606 (Examiner Osman)

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Application No.: 10/632,275
Office Action Dated: March 17, 2010

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Applicant has thus significantly narrowed the scope of prior art review to those references identified as particularly relevant in the related applications. Reviewing twenty - nine references is not an undue burden on the examiner. Consideration of at least the identified prior art documents is appropriate and is requested. The examiner is encouraged to contact Applicant's undersigned representative to discuss another alternative if this effort to advance prosecution is not deemed satisfactory.

Objection to the Specification

The title of the invention is objected to as not being descriptive. Applicant has amended the title to more specifically reflect the claimed subject matter. Withdrawal of the objection to the title is solicited.

Claim Objections

Claims 17 and 25 stand objected to as not reciting a "non-transitory" computer-readable storage medium. The specification has been amended to remove references to the "storage medium" as encompassing a carrier signal. The claims recite a "computer-readable storage medium" based on the amended specification and do not encompass a signal as a signal is not a "storage medium" as now defined in the specification. Withdrawal of the objection to claims 17 and 25 is solicited.

Claim Rejections – 35 U.S.C. §101

Claims 33-48 stand rejected under 35 U.S.C. §101 as allegedly not being directed to statutory subject matter. Independent method claims 33 and 41 have been amended to tie the claimed method to a particular "machine," namely, a computer that implements the claimed method. The claims as so amended are believed to satisfy the requirements of *In re Bilski*, 88 USPQ2d 1385 (2008) and to obviate the statutory subject matter rejection. Withdrawal of the rejection of claims 33-48 is solicited.

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Claims 49-64 stand rejected under 35 U.S.C. §101 as allegedly not being directed to statutory subject matter in that the invention of claims 49-64 allegedly may be implemented as “software-only embodiments.” Independent method claims 49 and 57 have been amended to recite a computing system comprising a memory storing computer-executable instructions and a processor programmed by the computer-executable instructions. As so amended, the computing system of claims 49-64 does not encompass software only components. Withdrawal of the rejection of claims 49-64 is solicited.

Conclusion

Entry of the above amendments is requested to place the pending patent application in condition for allowance. Issuance of a Notice of Allowability is solicited.

Date: June 17, 2010

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